

## STATE OF NORTH CAROLINA

File No.

DURHAM

County

In The General Court Of Justice  
☐ District ☒ Superior Court Division

Name Of Plaintiff

Dillon S. Tulip

FILED

Plaintiff's First Set of Interrogatories and  
Request for Production of Documents

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

Address

c/o Edwards Kirby, P. O. Box 17005

2018 NOV 16 A 10:41

City, State, Zip

Raleigh, NC 27619

VERSUS

DURHAM CO., C.S.C.

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

Anthony Lati Jenkins, Zumstein, Inc., and Cheeseman LLC

BY

ESS

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Zumstein, Inc.

2200 State Route 119

Fort Recovery, OH 45846

Name And Address Of Defendant 2



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out!**  
You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales.**  
**¡NO TIRE estos papeles!**

**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

## A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

David F. Kirby  
Edwards Kirby, L.L.P.  
P. O. Box 17005  
Raleigh, NC 27619

Date Issued

NOV 16 2018

Time

10:41

☒ AM ☐ PM

Signature

Elizabeth Tapley-Burnett



Deputy CSC



Assistant CSC



Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature



Deputy CSC



Assistant CSC



Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

AOC-CV-100, Rev. 4/18

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RETURN OF SERVICE		
I certify that this Summons and a copy of the complaint were received and served as follows:		
<b>DEFENDANT 1</b>		
Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint. <input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. <input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.		
Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with) <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>		
<input type="checkbox"/> Other manner of service (specify) <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>		
<input type="checkbox"/> Defendant WAS NOT served for the following reason: <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>		
<b>DEFENDANT 2</b>		
Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint. <input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. <input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.		
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<input type="checkbox"/> Defendant WAS NOT served for the following reason: <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>		
Service Fee Paid \$	Signature Of Deputy Sheriff Making Return	
Date Received	Name Of Sheriff (type or print)	
Date Of Return	County Of Sheriff	
AOC-CV-100, Side Two, Rev. 4/18 © 2018 Administrative Office of the Courts		

<b>STATE OF NORTH CAROLINA</b>		File No.
DURHAM County <div style="position: relative; height: 20px;"> <span style="position: absolute; top: -10px; left: 50%; transform: translate(-50%, -100%); font-weight: bold;">FILED</span> </div>		In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division
Name Of Plaintiff Dillon S. Tulip		Plaintiff's First Set of Interrogatories and Request for Production of Documents  <b>CIVIL SUMMONS</b> <input type="checkbox"/> ALIAS AND PLURIES SUMMONS (ASSESS FEE)  G.S. 1A-1, Rules 3 and 4
Address c/o Edwards Kirby, P. O. Box 17005		
City, State, Zip Raleigh, NC 27619		
Name Of Defendant(s) Anthony Lati Jenkins, Zumstein, Inc., and Cheeseman LLC		
Date Original Summons Issued		Date(s) Subsequent Summons(es) Issued
<b>To Each Of The Defendant(s) Named Below:</b>		
Name And Address Of Defendant 1 Anthony Lati Jenkins 716 Cypress Lane Anderson, SC 29621		Name And Address Of Defendant 2
<div style="display: flex; align-items: flex-start;"> <div style="flex: 1; text-align: center;"> </div> <div style="flex: 4;"> <p><b>IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!</b></p> <p><b>¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!</b></p> <p><b>Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!</b></p> </div> </div> <p><b>A Civil Action Has Been Commenced Against You!</b></p> <p>You are notified to appear and answer the complaint of the plaintiff as follows:</p> <ol style="list-style-type: none"> <li>1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and</li> <li>2. File the original of the written answer with the Clerk of Superior Court of the county named above.</li> </ol> <p>If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.</p>		
Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff) David F. Kirby Edwards Kirby, L.L.P. P. O. Box 17005 Raleigh, NC 27619		Date Issued NOV 16 2018
		Time 10:41 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
		Signature <b>Elizabeth Tapley-Burnett</b>
		<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
<input type="checkbox"/> ENDORSEMENT (ASSESS FEE) This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.		Date Of Endorsement
		Time <input type="checkbox"/> AM <input type="checkbox"/> PM
		Signature
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
<p><b>NOTE TO PARTIES:</b> Many counties have <b>MANDATORY ARBITRATION</b> programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.</p>		

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

Date Served

Time Served

☐ AM☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

Date Served

Time Served

☐ AM☐ PM

Name Of Defendant

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Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

Name Of Sheriff (type or print)

Date Of Return

County Of Sheriff

## STATE OF NORTH CAROLINA

File no.

DURHAM

County

In The General Court Of Justice  
☐ District ☒ Superior Court Division

Name Of Plaintiff

Dillon S. Tulip

Address

c/o Edwards Kirby, P. O. Box 17005

City, State, Zip

Raleigh, NC 27619

VERSUS

DURHAM CO., C.S.C.

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

Anthony Lati Jenkins, Zumstein, Inc., and Cheeseman LLC

Plaintiff's First Set of Interrogatories and  
Request for Production of Documents

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Cheeseman LLC

c/o PS&amp;E Corporate Services, Inc., Registered Agent

40 N. Main Street, 2700 Kettering Tower

Dayton, OH 45423

Name And Address Of Defendant 2



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Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

David F. Kirby

Edwards Kirby, L.L.P.

P. O. Box 17005

Raleigh, NC 27619

Date Issued

NOV 16 2018

Time

10:41

☒ AM ☐ PM

Signature

Elizabeth Tapley-Burnett

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

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Date Of Endorsement

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Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

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- ☐ Other manner of service (specify)

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**DEFENDANT 2**

Date Served

Time Served

☐ AM☐ PM

Name Of Defendant

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Date Received

Name Of Sheriff (type or print)

Date Of Return

County Of Sheriff

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DURHAM COUNTY

FILED


SUPERIOR COURT DIVISION

FILE NO.

DILLON S. TULIP, 2010 NOV 16 A 10:41

Plaintiff, DURHAM CO., O.S.C.

v.

BY **COMPLAINT**  
(Jury Trial Demanded)ANTHONY LATI JENKINS,  
ZUMSTEIN, INC., and  
CHEESEMAN LLC,

Defendants.

---

Plaintiff, complaining of defendants, alleges and says:

**THE PARTIES**

1. Dillon S. Tulip ("Mr. Tulip") is a citizen and resident of Yorktown, Virginia.
2. Upon information and belief, defendant Anthony Lati Jenkins ("Mr. Jenkins") is a citizen and resident of Anderson, South Carolina.
3. Upon information and belief, Zumstein, Inc. ("Zumstein") is a corporation duly incorporated, organized and existing under the laws of the State of Delaware, with its principal place of business in Lewisburg, Ohio, that operates vehicles and regularly conducts business in the State of North Carolina, including Durham County, North Carolina.
4. Upon information and belief, at all relevant times herein, defendant Zumstein, Inc., was an interstate motor carrier registered with the United States

Department of Transportation by D.O.T. #81444 and Federal Highway Administration, Office of Motor Carrier Safety, by M.C. #146890.

5. The tractor-trailer involved in the collision with Dillon Tulip was registered to Zumstein, Inc.

6. Upon information and belief, at all times relevant herein and at the time of the wreck hereinafter described, Mr. Jenkins was an employee and/or agent of Zumstein, Inc., and was driving the vehicle in the course and scope of his employment and/or agency with Zumstein, Inc., and in furtherance of the business of Zumstein, Inc.

7. Zumstein, Inc., is liable for any and all negligent acts and omissions of defendant Anthony Lati Jenkins as alleged herein.

8. Upon information and belief, Cheeseman LLC, ("Cheeseman") is a limited liability company duly organized under the laws of the State of Ohio with its principal place of business in Fort Recovery, Ohio, and operates vehicles and regularly conducts business in the State of North Carolina, including Durham County, North Carolina.

9. Upon information and belief, at all relevant times herein, defendant Cheeseman LLC was an interstate motor carrier registered with the United States Department of Transportation by D.O.T. #120612 and Federal Highway Administration, Office of Motor Carrier Safety, by M.C. #149440.

10. The tractor-trailer involved in the collision with Dillon Tulip bore "Cheeseman" markings on the tractor cab.

11. Upon information and belief, at all relevant times herein and at the time of the wreck herein described, Mr. Jenkins was an employee and/or agent of Cheeseman



LLC and was driving the vehicle in the course and scope of his employment and/or agency with Cheeseman LLC and in furtherance of the business of Cheeseman LLC.

12. Cheeseman LLC is liable for any and all negligent acts or omissions of defendant Anthony Lati Jenkins as alleged herein.

### The Wreck

13. Plaintiff incorporates paragraphs 1-12 as if fully set forth herein.

14. On February 10, 2016, at approximately 7:10 p.m., Mr. Jenkins was operating a tractor-trailer in a westward direction on Interstate 40 ("I-40") near Durham, in Durham County, North Carolina.

15. At the same time, Mr. Tulip was operating a 2004 Toyota west on I-40 in the same direction of travel as Mr. Jenkins in an adjacent lane from the tractor-trailer.

16. The portion of westbound I-40 where Mr. Tulip and Mr. Jenkins were driving is comprised of four lanes, a breakdown lane next to the concrete median barrier, and a paved shoulder.

17. Mr. Jenkins was traveling in the third lane from the paved shoulder.

18. Dillon Tulip was traveling in the second lane from the paved shoulder.

19. Mr. Jenkins attempted to change lanes to the right without ascertaining that it was safe to do so and merged his tractor trailer into the lane occupied by Mr. Tulip.

20. Mr. Jenkins' tractor-trailer struck Mr. Tulips' Toyota at highway speeds.

21. The force of the collision caused Mr. Tulip to lose control of his Toyota, which travelled across three lanes of traffic before striking a stationary North Carolina

State Highway Patrol vehicle that was parked in the breakdown lane adjacent to the median investigating an unrelated collision.

22. The force of the collision caused the Tulip vehicle to bounce off the parked highway patrol vehicle, after which the Tulip vehicle was sideswiped by a third vehicle at low speed.

23. In total, five motor vehicles were involved in this collision on I-40 resulting from the negligent driving of Mr. Jenkins.

24. Defendant, Mr. Jenkins, individually, Zumstein, Inc., and Cheeseman LLC, through the acts of their employee and/or agent, Mr. Jenkins, were negligent and negligent per se in causing the wreck described above in that Mr. Jenkins:

- (a) Failed to keep his vehicle under proper control;
- (b) Failed to keep a proper lookout;
- (c) Performed an unsafe movement in violation of N.C.G.S. 20-154(a);
- (d) Failed to reduce speed to avoid a collision;
- (e) Failed to operate the tractor trailer in a safe and reasonable manner;
- (f) Failed to yield the right of way in violation of N.C.G.S. § 20-155(b);
- (g) Operated a vehicle on the highways of North Carolina without due caution and circumspection and in a manner so as to endanger persons or property in violation of N.C.G.S. § 20-140(b); and
- (h) Was negligent in other ways as shown through discovery.

25. As a direct and proximate result of the defendant's negligence described above, the tractor-trailer vehicle driven by Mr. Jenkins struck Mr. Tulip's vehicle at

highway speeds causing a violent collision, severe injuries and damages to Mr. Tulip, including but not limited to, medical expenses, pain and suffering, loss of use of body parts, lost wages, permanent injury, a traumatic brain injury resulting in permanent loss of executive function, loss of memory, and other cognitive deficits, a splenic laceration, multiple rib fractures, and a lung contusion.

26. As a direct and proximate result of the defendants' negligence, Mr. Tulip has incurred and will continue to incur medical expenses and require ongoing care to manage the permanent cognitive deficits as a result of his traumatic brain injury.

27. The damages Mr. Tulip has suffered and will continue to suffer as a result of the defendants' negligence are in excess of \$25,000.

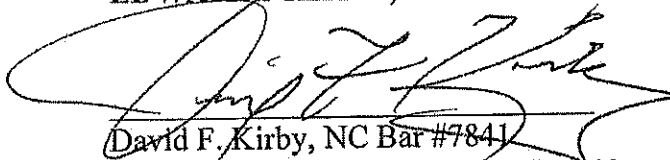
#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays the Court as follows;

1. That the plaintiff have and recover judgement against the defendants, jointly and severally, compensatory damages in an amount in excess of \$25,000.
2. That this action be tried by a jury.
3. That the defendants be taxed with the costs of this action, including prejudgment interest.
4. That the plaintiff have such other further relief as the Court may deem just and proper.

This the 16<sup>th</sup> day of November, 2018

**EDWARDS KIRBY, L.L.P.**

A large, stylized handwritten signature in black ink, likely belonging to David F. Kirby, is written over the printed name and bar number.

David F. Kirby, NC Bar #7841

William B. Bystrynski, NC Bar #20883

Winston S. Kirby, NC Bar #49316

Attorneys for Plaintiff

P. O. Box 17005

Raleigh, NC 27622

(919) 780-5400